

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

11/07/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-000206

FILED: _____

STATE OF ARIZONA

BARTON J FEARS

v.

STETSON PAUL TROXEL

MICHAEL M RICARD

PHX CITY MUNICIPAL COURT
REMAND DESK CR-CCC

MINUTE ENTRY

PHOENIX CITY COURT

Cit. No. #6122093

Charge: 1. POSSESSION OF STOLEN PROPERTY (CHECK \$45.00)

DOB: 11/10/75

DOC: 11/16/01

This Court has jurisdiction of this criminal appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This matter has been under advisement without oral argument and this Court has considered the record of the proceedings from the Phoenix City Court, and the Memoranda submitted by counsel.

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The only issue presented for review is whether the trial court erred in denying Appellant's Motion to Suppress based upon an alleged improper search of Appellant at the time of his arrest. Appellant contends that "a search incident to arrest is (not) reasonable when the arrest is for an offense that does not exist."¹ Both parties are in agreement that the Phoenix Police were justified in stopping Appellant for investigation. And, the parties also agree that an important exception to the requirement that the police must obtain a search warrant, is when a search is conducted incident to a valid arrest.² Appellant's only contention is that the witnesses reported to the police that they observed Appellant "rifling" and "going through mailboxes", and there is no such crime that makes "going through a mailbox" a criminal offense. Appellant concedes that there is probable cause to believe that Appellant was going through mailboxes.

Appellant's contentions fail because the activity described by the witnesses support a police officer's reasonable suspicion that criminal activity has occurred. Based upon the statements of the witnesses, the police officers could conclude that Appellant had committed Burglary in the 3rd Degree, a class 4 felony in violation of A.R.S. Section 13-1506; Criminal Trespass in the 2nd Degree, a class 2 misdemeanor in violation of A.R.S. Section 13-1503; or Theft or Attempted Theft, in violation of A.R.S. Section 13-1802(A). Based upon the conduct described, Appellant could have been charged with any of those crimes enumerated. This Court must, therefore, conclude that the Phoenix Police did possess probable cause to believe that he had committed a crime, and would warrant taking Appellant into custody. The resulting custodial search incident to the arrest of Appellant, was entirely proper. The trial court did not error.

¹ Appellant's Memorandum, at page 2.

² See State v. Lopez, 198 Ariz. 420, 10 P.3rd 1207 (App. 2000).

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IT IS THEREFORE ORDERED affirming the judgment of guilt and sentence imposed by the Phoenix City Court.

IT IS FURTHER ORDERED remanding this matter back to the Phoenix City Court for all further and future proceedings in this case.